

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35841

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| STATE OF IDAHO, |) | 2009 Unpublished Opinion No. 551 |
| |) | |
| Plaintiff-Respondent, |) | Filed: July 28, 2009 |
| |) | |
| v. |) | Stephen W. Kenyon, Clerk |
| |) | |
| SCOTT HOWARD HOLMES, |) | THIS IS AN UNPUBLISHED |
| |) | OPINION AND SHALL NOT |
| Defendant-Appellant. |) | BE CITED AS AUTHORITY |
| |) | |

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Gooding County. Hon. R. Barry Wood, District Judge.

Judgment of conviction and consecutive sentences of five years determinate for the first count of escape, to life imprisonment, with five years determinate, for the second count of escape, with a persistent violator enhancement, affirmed.

Molly J. Huskey, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before PERRY, Judge, GUTIERREZ, Judge
and GRATTON, Judge

PER CURIAM

Scott Howard Holmes was charged with two counts of escape and one count of battery on a correctional officer, with a persistent violator enhancement. The battery charge was dismissed by the prosecutor. A jury found Holmes guilty of two counts of escape, I.C. § 18-2505(1), and he was found to be a persistent violator. The district court sentenced Holmes to consecutive terms of five years determinate, for the first count of escape and to life imprisonment, with five years determinate, for the second count of escape with a persistent violator enhancement. Holmes appeals from his judgment of conviction and sentences, contending that the district court abused its discretion by imposing excessive sentences.

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d 1331, 1337 (1989). We will not conclude on review that the sentencing court abused its discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we consider the nature of the offense and the character of the offender, applying our well-established standards of review. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by imposing the sentences. Accordingly, Holmes's judgment of conviction and sentences are affirmed.